



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: AA/06871/2015

**THE IMMIGRATION ACTS**

Heard in Newport  
On 27 June 2016

Decision & Reasons Promulgated  
On 29 July, 2016

Before

DEPUTY UPPER TRIBUNAL JUDGE DAVEY

Between

E M  
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**Representation:**

For the Appellant: Mr S Khan, Counsel, instructed by Malik & Malik (236 High Road)  
For the Respondent: Mr M Diwnycz, Senior Presenting Officer

**DECISION AND REASONS**

1. The Appellant, a national of Albania, appealed against the Respondent's decision to make removal directions under Section 10 of the Immigration and Asylum Act 1999,

an asylum and human rights based claim having been refused. The decision of 26 March 2015 as appealed came before First-tier Tribunal Judge R E Barrowclough who, on 21 December 2015, dismissed the appeal under the Refugee Convention, Humanitarian Protection and Article 8 ECHR grounds.

2. The judge made an anonymity order which has continued. Permission to appeal was given by First-tier Tribunal Judge McDade on 21 January 2016.
3. The principal criticism of the judge is that his analysis failed to properly assess the risk on return of the Appellant as a single woman with her children in terms of societal, family and other discrimination and persecution likely to be faced because of her status. The issue was not one of whether single women with children faced the risk of societal discrimination or state discrimination or faced persecution for a Convention reason but whether or not the Appellant with reference to findings of fact was shown to be such a person. The judge, in the decision [D19-26], concluded that the Appellant's claim was simply not believable, the Appellant was telling untruths, her account was false and that none of it was believed vis-à-vis her claim to be trafficked or put to work as a sex worker against her will.
4. The judge said this:

“24. The inescapable effect of this overwhelming damage to the Appellant's credibility in relation to virtually all aspects of her account is that it is impossible, I find, to place any reliance on anything she said, either in her interviews, her witness statement or her oral evidence to the Tribunal, save where it is expressly supported and corroborated by independent evidence; which, in the circumstances of this case, Immigration Rules practically non-existent. It follows, in my judgement, that the Appellant has got nowhere near proving even to the relatively modest standard required, that she is at risk from Alban (assuming he even exists, about which I remain in doubt), or from her husband or her family if she or her

children are returned to Albania. Whilst there is certainly evidence that trafficking for sexual exploitation, and domestic violence and abuse are present and not uncommon in Albanian society, the Appellant's evidence and account is, in my judgement so unreliable and flawed that she has failed to establish or prove that she either has been or is at risk of being a victim of either. Additionally, it is uncontested that the Appellant's eldest child was born within wedlock; and given the chronology set out above, it is by no means impossible that her younger child was as well. I note that both children have been given and bear the Appellant's husband's name. Since I do not accept the Appellant's account of her past life, and am unconvinced by her account of her dispute with her husband and her association with Alban Likaj, the perils and dangers normally associated with returning single woman accompanied by illegitimate children to Albania, and the difficulties associated with internal relocation there, do not arise or apply.

25. Accordingly in my judgement the Appellant has not succeeded in proving to the required standard that she has a well-founded fear of persecution if returned to Albania, or the existence of substantial grounds for believing that she would face a real risk of suffering serious harm in that eventuality. It follows therefore that both the Appellant's claim for asylum and humanitarian protection fail and her appeal must be dismissed. I find that the Appellant has not discharged the burden of proof of having a well-founded fear of persecution for a Convention reason and that the Appellant's removal would cause the United Kingdom to be in breach of its obligations under the 1951 Convention."

5. For the same reasons the judge rejected the claimant's need for humanitarian protection or the risk of Articles 2 or 3 proscribed ill-treatment.

6. Mr Khan says that the judge failed to make a specific finding of whether the Appellant was still married and/or with her husband because that was material as to how her presence would be assessed on a return to Albania. It is correct to say the judge does not make a specific finding that the Appellant remains married but the inevitable inference to be drawn from the way the judge's consideration [D24 and 25] of is that she did remain married, and it is plain that the judge did not think the Appellant would be returning as a single woman unaccompanied, other than by children, and thus therefore at risk either from her own family or indeed third parties.
7. Indeed I find the wording [D24] clear beyond any doubt that the judge's finding that the Appellant was not at risk to that low standard of proof applied in Refugee Convention claims from a man called Alban or from her husband or from her family if the Appellant and her children were returned to Albania.
8. In those circumstances it seemed to me that the only sensible inference that can be drawn is that the Appellant would not be returning as a single woman bereft of husband and at the mercies of her family who would now look upon her in a different light as a single unaccompanied woman other than by children.
9. The judge made sufficiently reasoned findings that he did not accept the Appellant's account of her past life nor her account of dispute with her husband nor her association with Alban, nor did the perils and dangers normally associated with a returning single woman apply to this Appellant. It is not for me to go behind the judge's findings of fact. Despite Mr Khan's best efforts it simply seemed to me that the ground is really trying to reargue the merits of the case. Indeed further evidence was prepared on the basis that it was thought there was a resumed hearing today essentially to reargue those factual issues.
10. I find the Original Tribunal made no error of law. The Original Tribunal's decision stands. The appeal is dismissed.

11. An anonymity order was previously made. I agree to it being continued.

**DIRECTION REGARDING ANONYMITY - RULE 14 OF THE TRIBUNAL  
PROCEDURE (UPPER TRIBUNAL) RULES 2008**

Unless and until a Tribunal or court directs otherwise, the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of their family. This direction applies both to the Appellant and to the Respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

Date 27 July 2016

Deputy Upper Tribunal Judge Davey

**TO THE RESPONDENT**

**FEE AWARD**

I have dismissed the appeal and therefore there can be no fee award.

Signed

Date 27 July 2016

Deputy Upper Tribunal Judge Davey